
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

Purple Innovation, LLC,
Plaintiff,

v.

Honest Reviews, LLC, et al.,
Defendants.

**FOURTH AMENDED SCHEDULING
ORDER**

Case No. 2:17-cv-00138-DB

District Judge Dee Benson

- | 1. | PRELIMINARY MATTERS | DATE |
|----|--|-------------------|
| a. | Was Rule 26(f)(1) Conference held? | <u>06/21/17</u> |
| b. | Have the parties submitted the Attorney Planning Meeting Form? | <u>06/22/17</u> |
| c. | Deadline for 26(a)(1) initial disclosure? | <u>09/11/2017</u> |
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- | 2. | DISCOVERY LIMITATIONS | NUMBER |
|----|---|-----------|
| a. | Maximum Number of Depositions by Plaintiff (includes experts) | <u>15</u> |
| b. | Maximum Number of Depositions by Defendants (including experts) | <u>15</u> |
| c. | Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | <u>10</u> |
| d. | Maximum Interrogatories by any Party to any Party (including subparts) | <u>25</u> |
| e. | Maximum requests for admissions by any Party to any Party | <u>25</u> |
| f. | Maximum requests for production by any Party to any Party | <u>40</u> |

- g. The Parties shall comply with the Agreement Regarding ESI/Copying Specifications (Docket 167-2) regarding discovery of electronically stored information (“ESI”).

The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: Included provisions in ESI agreement to obtain the benefit of Fed. R. Evid. 502(d).

		CURRENT DATE	AMENDED DATE
h.	Last day to serve written discovery:	6/15/18	---
i.	Close of fact discovery:	12/1/18	1/30/19
j.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e):	2/1/19	2/1/19
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES¹	CURRENT DATE	AMENDED DATE
a.	Last Day to File Motion to Amend Pleadings	9/1/17	---
b.	Last Day to File Motion to Add Parties	9/1/17	---
4.	RULE 26(a)(2) EXPERT DISCLOSURES & REPORTS	CURRENT DATE	AMENDED DATE
	Disclosures		
a.	Part(ies) bearing burden of proof	2/1/19	2/1/19
b.	Counter disclosures	3/15/19	3/15/19
	Reports		
a.	Part(ies) bearing burden of proof	2/1/19	2/1/19
b.	Counter reports	3/15/19	3/15/19
5.	OTHER DEADLINES	CURRENT DATE	AMENDED DATE
a.	Last day for Expert discovery	5/15/19	5/15/19

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

b.	Deadline for filing dispositive or potentially dispositive motions	5/15/19	5/15/19
c.	Deadline for filing partial or complete motions to exclude expert testimony	5/15/19	5/15/19
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION	CURRENT DATE	AMENDED DATE
a.	Referral to Court-Annexed Mediation:	<u>No</u>	<u>No</u>
b.	Referral to Court-Annexed Arbitration	<u>No</u>	<u>No</u>
c.	The parties will complete Private Mediation/Arbitration by:	<u>00/00/00</u>	<u>00/00/00</u>
d.	Evaluate case for Settlement/ADR on Settlement probability:	5/5/19	5/5/19

*Specify # of days for Bench or Jury trial as appropriate.
The court will complete the shaded areas.*

7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
a.	Rule 26(a)(3) Pretrial Disclosures ²		
	Plaintiff		<u>09/06/19</u>
	Defendant		<u>09/20/19</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		<u>00/00/00</u>
c.	Special Attorney Conference ³ on or before		<u>10/07/19</u>
d.	Settlement Conference ⁴ on or before		<u>10/07/19</u>

² The Parties must disclose and exchange any demonstrative exhibits or animations with the 26(a)(3) disclosures.

³ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. The parties should schedule witnesses to avoid gaps and disruptions. The parties should mark exhibits in a way that does not result in duplication of documents. The pre-trial order should include any special equipment or courtroom arrangement requirements.

⁴ The Settlement Conference does not involve the Court unless the Court enters a separate order. Counsel must ensure that a person or representative with full settlement authority or otherwise

e. Final Pretrial Conference

2:30 p.m. 11/04/19

f. Trial Length

i. Bench Trial

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__:__:__m. 00/00/00

ii. Jury Trial

7 days

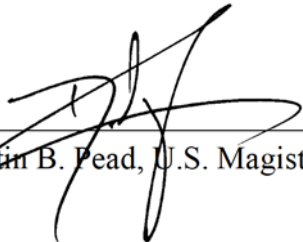
8:30 a.m. 11/25/19

8. OTHER MATTERS

Counsel should contact chambers staff of the judge presiding in the case regarding Markman motions to determine the desired process for filing and hearing of such motions. Parties should file all Motions in Limine well in advance of the Final Pre Trial.

SIGNED December 3, 2018

BY THE COURT:


Dustin B. Pead, U.S. Magistrate Judge

Agreed as to Form

/s/ Kennedy K. Luvai

Kennedy K. Luvai

Attorney for GhostBed, Inc, Marc Werner and Ashley Werner Spahic

/s/ Christine T. Greenwood

Christine T. Greenwood

Attorney for Purple Innovation, LLC

/s/ Charles Lee Mudd Jr.

Charles Lee Mudd Jr.

Attorney for Honest Reviews, LLC and Ryan Monahan

*Signatures affixed with permission of counsel via email.

authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.